

apparatus capable of performing the same functions from being referenced as prior art.

Applicant had had no previous chance to address these issues. Now the Examiner refuses to consider amended claims on the basis that new issues are raised by the added limitations “two rotated rollers being biased together”.

Thus the current issues are:

- (a) Claims 10 and 12 rejected under 35 USC 102(b) over Fritz, et al. 3,687,269
- (b) Claim 10 is rejected under 35 USC 102(b) over Busch 3,710,836
- (c) Claim 10 is rejected under 35 USC 102(b) over Schoendelen 1,578,854
- (d) Claims 11, 14, 15 and 18, dependent upon Claim 10, are prematurely withdrawn before patentability of Claim 10 is determined.
- (e) Claims 10 and 12 limit the structure of a cutting apparatus but do not limit the structure of the tread strips that are cut by the apparatus.
- (f) The limitations concerning the tread strips is merely the intended use of the apparatus and do not prevent an apparatus capable of performing the same functions from being referenced as prior art.

These issues are addressed hereinafter as directed to amended claims 10 and 12.

TRAVERSAL OF THE CURRENT ISSUES

(a) Anticipation of Claims 10 and 12 by Fritz, et al. 3,687,269

Fritz discloses movable sets of vertical bandsaws for first cutting logs into boards and then edging the boards. Note from applicant's Figs. 2 and 3 that the tire tread strips

are cut by counter rotating transit cutter blades, and not by bandsaws. Claims 10 and 12 positively claim the rotating blade means carried by the two rotating rollers. Thus there can be no anticipation by Fritz.

(b) Anticipation of Claim 10 by Busch 3,710,836

Busch uses saw blades 124 (Fig. 3) as the strip shaping means applied by the Examiner as capable of cutting rectangular shaped tread strips. That rejection ground is fully overcome by amended claim 10 which positively defines shaping blade means carried by two biased together feed rollers structurally different from Busch's rotating saw blades, which do not constitute his biased feeding rollers 182, 184 and conveyer chain 60.

(c) Anticipation of Claim 10 by Schoendelen

The rejection ground is that the shaping means 49, 51 of Schoendelen is capable of cutting rectangular shaped tread strips without applying and rejecting the entire claimed combination. Schoendelen does not disclose the cutting of rectangular shaped tread strips nor presents any feasible concept of processing flexible tire tread strips. Thus claim 10 amended fully overcomes this rejection ground.

(d) Prematurely withdrawn Claims 11, 14, 15 and 18

In the presence of an allowable parent claim, applicant is entitled to claim different dependent species claims. The Claims 11, 14, 15, and 18 were thus erroneously

withdrawn and now need to be considered in connection with the patentability of Claim 10. Amendments conform these claims for proper antecedent structural form.

(e) Claims 10 and 12 limit the structure of a cutting apparatus but do not limit the structure of the tread strips that are cut by the apparatus.

The amended Claims 10 and 12 are now presented to more explicitly define the tread strip structure and thus this rejection ground is fully overcome.

(f) The limitations concerning the tread strips is merely the intended use of the apparatus and do not prevent an apparatus capable of performing the same functions from being referenced as prior art.

In the presently amended claims the flexible tread strip structure interrelationship in the system combination as a whole is clarified to overcome this rejection ground. The narrower tire tread strip output product is now explicitly defined among other limitations as structure excluding Schoendelen as prior art and thus can be given patentable weight.

CONCLUSIONS

All rejection grounds outstanding are now moot in view of the presentation of Amended Claim 10 limiting the apparatus structure in more explicitly defined structural terms, as the Examiner suggests, and to supply explicit structural limitations overcoming

the newly cited art and the newly stated rejection grounds.

Accordingly allowance of Amended Claims 10 and 12 is now in order as well as the examination and allowance of claims 11, 14, 15 and 18 dependent upon Claim 10 and is respectfully solicited.

The title is amended as a matter of form to conform to the nature of the retained claims.